

MINUTES OF THE STANDING COMMITTEE ON AGRICULTURE

Wednesday, August 24, 2005 10:30 a.m. Room 351 State Capitol, Lansing, Michigan

Representatives LaJoy and Nitz, Chairs, called the Joint Meeting of the Standing Committees on Transportation and Agriculture to order.

MEMBERS PRESENT: Representatives Nitz, Ball, Newell, Casperson, Stahl, Proos, Hune, Mayes, Spade, Sheltroun. (10/11)

ABSENT/EXCUSED: Representative Kathleen Law. (1/11)

Representative Sheltroun made a motion to adopt the minutes of the meeting of June 7, 2005, supported by Representative Hune. No objections being offered, a unanimous ballot was cast to accept the minutes as presented.

Representative Nitz, Chair of the Standing Committee on Agriculture, laid the following bills before the Committees:

- | | |
|---------|--------------------------------------------------------------------------------------------------------------|
| HB 4501 | Amos Transportation; motor fuel tax; administrative fines, civil fines, and criminal fines; increase. |
| HB 4502 | Amos Agriculture; weights and measures; administrative fines, civil fines, and criminal penalties; increase. |

Keith Creagh, Deputy Director of the Michigan Department of Agriculture (MDA), and Celeste Bennett, representing the MDA Motor Fuels Quality Division, provided an update on the Motor Fuel Quality and Weights and Measures Programs and spoke to the Committees regarding quality control, testing measures, and penalties imposed when violations occur at gasoline service stations. Questions were answered for Committee members.

The following individuals also spoke to the Committees regarding HB 4501 and HB 4502:

- Mark Griffin, representing the Michigan Petroleum Association, in opposition
- Ed Weglarz, representing the Service Station Dealers Association of Michigan, in opposition
- Bill Vollenweider and Rick Perry, representing the Detroit Travel Center, in opposition
- Bill Baber of Ben-ten Springs, representing himself, in opposition

Cards for HB 4501 and HB 4502 were submitted by:

- John Griffin, representing the Associated Petroleum Industries of Michigan, in opposition
- Ron Bewersdorff, representing Lansing Ice and Fuel, in opposition
- Tom Barron, representing C. Barron and Sons, Inc., in opposition
- Bill McCarthy, representing Blarney Castle Oil Company, in opposition

Subsequent to discussion, Agriculture Chair Nitz stated that the Committees would briefly stand in recess, the time being 1:35 p.m. Chair Nitz recalled the meeting to order at 1:40 p.m.

The Chair stated that voting on HB 4501 and HB 4502 would occur at this time.

Representative Mayes made a motion to amend HB 4501 as follows, supported by Representative Sheltnown:

1. Amend page 2, following line 26, by inserting:

"Sec. 6. (1) Before a distributor or retail dealer engages in transferring, selling, dispensing, or offering for sale gasoline in this state, the distributor or retail dealer shall obtain a license from the department for each retail outlet operated by that person. In administering the licensing under this section, the department may attempt to coordinate the licensing with the licensing applicable to gasoline administered by the department of treasury pursuant to UNDER the motor fuel tax act, 2000 PA 403, MCL 207.1001 to 207.1 170, and the general sales tax act, 1933 PA 167, MCL205.51 to 205.78.

(2) A license expires annually on November 30 unless renewed before December 1 of each year or unless suspended, denied, or revoked by the department.

(3) The fee for a license is \$15.00. For gasoline dispensing, 31, 20% \$100.00 FOR each year or portion of a year. A license shall not be issued or renewed until the fee and any administrative fines issued under section 10a have been paid. A hearing is not required

before the refusal to issue or renew a license under this subsection. Fees collected shall be deposited in the gasoline inspection and testing fund.

(4) An application for a license shall be made to the department upon a form furnished by the department. The completed form shall contain the information requested by the department and shall be accompanied by the fee specified in subsection (3).

(5) The director may suspend, deny, or revoke a license issued pursuant to this act for failure to comply with the requirements provided for in section 3, for failure to provide notice as provided in section 4, for violating section 31 of the weights and measures act, of 1964;- 1964 PA 283, MCL 290.631, if that violation occurs at any of the licensee's retail outlets and involves the transferring, selling, dispensing, or the offering for sale of gasoline in this state, or for otherwise

failing to comply with this act or a rule promulgated under this act or an order issued under this act.

(6) This section. THE INITIAL OR RENEWAL

APPLICATION SHALL INCLUDE A CERTIFICATE OR OTHER VERIFICATION FROM AN INDEPENDENT THIRD PARTY THAT THE APPLICANT'S PUMPS ARE CALIBRATED AND THAT THE APPLICANT'S EQUIPMENT AND DISPLAYS ARE IN COMPLIANCE WITH THE WEIGHTS AND MEASURES ACT, 1964 PA 283, MCL 290.601 TO 290.634.

Standing Committee on Agriculture

(7) If a person licensed under this act is convicted of a willful violation under section 31 of the weights and measures act, -ef-.1-961;- 1964 PA 283, MCL 290.631, any license issued UNDER this act shall be revoked for 2 years.

(8) A suspension, revocation, or denial of a license of a person who is an individual shall result In the suspension, revocation, or denial of any other license held or applied for by that individual under this act. The license of a corporation, partnership, or other association shall be suspended when a license or license application of a partner, trustee, director, or officer, member, or a person exercising control of the corporation, partnership, or other association is suspended, revoked, or denied. The suspension shall remain in force until the director determines that the disability created by the suspension, revocation, or denial has been removed.

.. (9) Except as otherwise provided in subsection (3), cf t k

& the department shall issue an initial or renewal

license not later than 120 days after the applicant files a completed application. If the application is considered incomplete by the department, the department shall notify the applicant in writing or make notification electronically available within 40 days after receipt of the incomplete application, describing the deficiency and requesting the additional information. The 120-day period is tolled upon notification by the department of a deficiency until the date all of the information requested during the 40-day period is received by the department. Requests for new or additional information by the department that fall outside the 40-day period do not toll the 120-day period. The determination of the completeness of an application does not operate as an approval of the application for the license and does not confer eligibility of an applicant determined otherwise ineligible for issuance of a license.

(10) If the department does not issue or deny a license within 120 days after the receipt of a completed application, the department shall return the license fee and shall reduce the license fee for the applicant's next renewal application, if any, by 15%. The failure to issue a license within the time required under this subsection does not allow the department to otherwise delay the processing of the application, and that application, upon completion, shall be placed in sequence with other completed applications received at that same time. The department shall not discriminate against an applicant in the processing of an application based on the fact that the application fee was refunded or discounted under this subsection.

(1 -1:-) 1,2085

..

tJ , ;he-- THE director of the department shall submit a report by

December 1 of each year to the standing committees and appropriations subcommittees of the senate and house of representatives concerned with motor fuel quality issues. The director shall include all of the following information in the report concerning the preceding fiscal year:

(a) The number of initial and renewal applications the department received and completed within the 120-day time period described in subsection (9).

(b) The number of applications denied.

(c) The number of applications not issued within the 120-day period and the amount of money returned to licensees and registrants under subsection(10).

Standing Committee on Agriculture

(12) Before a blender engages in the transferring, selling, dispensing, or offering for sale blended gasoline in this state, the blender shall register the finished product with the department and provide to the department test results as the department considers necessary. If the product does not comply with the requirements of section 3, the blender shall provide the department with a written list of the business names and addresses to whom the blended product is sold.

(13) As used in this section, "completed application" means an application complete on its face and submitted with any applicable licensing fees as well as any other information, records, approval, security, or similar item required by law or rule from a local unit of government, a federal agency, or a private entity but not from another department or agency of the state of Michigan."

UNFAVORABLE ROLL CALL:

Yeas: Representatives Hune, Mayes, Spade, Sheltroun. (4111)

Nays: Representatives Nitz, Ball, Newell, Casperson, Stahl, Proos. (6111)

Pass: None. (0111) (41610)

6 An Insufficient number of members voting in the affirmative, the motion did not prevail.

1

Representative Stahl made a motion to report HB 4501 with recommendation, supported by Representative Ball.

FAVORABLE ROLL CALL:

Yeas: Representatives Nitz, Ball, Newell, Casperson, Stahl, Proos, Hune. (7111)

Nays: None. (0111)

Pass: Representatives Mayes, Spade, Sheltroun. (3111) (71013)

I A sufficient number of members voting in the affirmative, the motion prevailed.

Representative Sheltroun made a motion to amend HB 4502 as follows, supported by Representative Mayes:

1. Amend page 2, line 1, after "than" by striking out "\$1,000.00" and inserting "\$100.00".

2. Amend page 2, line 2, by striking out "\$7,500.00" and inserting "\$5,000.00".

3. Amend page 2, line 5, after "than" by striking out "\$2,000.00" and inserting "\$500.00".

4. Amend page 2, following line 7, by inserting:

"(D) IF THE PERSON IS A RETAIL DEALER SUBJECT TO THE MOTOR FUELS QUALITY ACT, 1984 PA 44, MCL 290.641 TO 290.650D, AND THE VIOLATION IS A VIOLATION ASSOCIATED WITH CALIBRATION OF PUMPS OR EQUIPMENT AND DISPLAYS THAT RELATE TO DELIVERY OF GASOLINE, THE CIVIL FINES FOR SUBSEQUENT OFFENSES ARE AS FOLLOWS:

(i) FOR A SECOND VIOLATION WITHIN 2 YEARS OF THE DATE OF THE FIRST VIOLATION, NOT LESS THAN \$1,000.00 OR MORE THAN \$7,500.00.

Standing Committee on Agriculture

Minutes of Meeting of August 24, 2005

Page 5

(ii) FOR A THIRD VIOLATION WITHIN 2 YEARS OF THE DATE OF THE FIRST VIOLATION, NOT LESS THAN \$2,000.00 OR MORE THAN \$10,000.00.

(iii) IN ADDITION TO THE CIVIL FINES UNDER EITHER SUBPARAGRAPH (i) OR (ii), THE ACTUAL COSTS OF THE INVESTIGATION AND THE AMOUNT OF ANY ECONOMIC BENEFIT ASSOCIATED WITH THE VIOLATION. " .

UNFAVORABLE ROLL CALL:

Yeas: Representatives Ball, Mayes, Spade, Sheltroun. (4111)

Nays: Representatives Nitz, Newell, Casperson, Stahl, Proos, Hune. (6111)

Pass: None. (0111) (41610)

An insufficient number of members voting in the affirmative, the motion did not prevail.

Representative Hune made a motion to report HB 4502 with recommendation, supported by Representative Stahl.

FAVORABLE ROLL CALL:

Yeas: Representatives Nitz, Ball, Newell, Casperson, Stahl, Proos, Hune. (7111)

Nays: None. (0111)

Pass: Representatives Mayes, Spade, Sheltroun. (3111) (71013)

A sufficient number of members voting in the affirmative, the motion prevailed.

Representative Proos made a motion to excuse absent members, supported by Representative Casperson. No objections being offered, absent members were excused.

There being no additional business before the Committee, Chair Nitz declared the meeting adjourned, the time being 2: 10 p.m.

Representative Neal Nitz, Chair